Court No.2

(1) Civil Misc. Writ Petition No. 5993 (M/S) of 2001
(Old No. 23933 of 1993).

U.P. State Textiles Corporation, (Spinning Mill) Jaspur, District-Nainital. ……. Petitioner.

Versus

State of U.P. through Secretary, Labour, U.P. and three others. ……. Respondents.

(2) Civil Misc. Writ Petition No. 3148 (M/S) of 2001
(Old No. 23935 of 1993).

U.P. State Textiles Corporation, (Spinning Mill) Jaspur, District-Nainital. ……. Petitioner.

Versus

State of U.P. through Secretary, Labour, U.P. and three others. ……. Respondents.

AND

(3) Civil Misc. Writ Petition No. 3149 (M/S) of 2001
(Old No. 23931 of 1993).

U.P. State Textiles Corporation, (Spinning Mill) Jaspur, District-Nainital. ……. Petitioner.

Versus

State of U.P. through Secretary, Labour, U.P. and three others. ……. Respondents.

……..

Hon'ble P.C. Verma, J.

All the aforementioned three writ petitions involve common question of law, hence they are taken up together and disposed of by a common order.

All these petitions have been filed by the petitioner seeking writ of certiorari to quash the reference of the industrial dispute made by the Deputy Labour Commissioner on the ground that the State Government is authorized to form an opinion for making a reference and the power of forming of opinion vested in the State Government under Section 4K of the U.P. Industrial Disputes Act (hereinafter referred to as the Act) cannot be delegated under Section 11A of the Act.

The argument of the learned counsel for the petitioner is attractive but is misconceived. A reading of Section 4K of the Act itself makes it clear that for the purpose of reference the opinion has to be formed. The power to make the reference is vested in the State Government for which opinion is to be formed. The power exercisable by State Government can be delegated under Section 11A of the Act by the State Government to be exercised by such officer or authority subordinate to the State Government as may be specified in the notification. The State Government, in exercise of power under Section 11A of the Act, has delegated its power vide notification No. 2513 (H.I.)/36-2-155 (S.M.)-90, Lucknow, dated 29th August 1990, in which the Deputy Labour Commissioner, Kumaon Division has been authorized to make reference of the disputes referred under Section 4K of the Act for adjudication by the Labour Court or Industrial Tribunal, as the case may be. Copy of above notification dated 29th August, 1990 is on record as Annexure No. 4 in all the above writ petitions. The vires of the notification is not under challenge in these writ petitions.

Therefore, I do not find any merit in these writ petitions, as there is a valid delegation and reference of the industrial dispute by the Deputy Labour Commissioner in exercise of the delegated power.

All these writ petitions are dismissed. No order as to costs.

(P.C. Verma, J.)

03.03.2003
P. Singh